

## TONTOGANY VILLAGE COUNCIL

### RE-ZONING HEARING AND REGULAR MEETING MINUTES FROM: December 4, 2017

#### RE-ZONING HEARING:

Council called to order at 6:33 p.m., with Mayor Todd Buehrer presiding, for a re-zoning hearing for lots 53 and 54 (parcel numbers V74-510-050311001000 and V74-510-050311002000, respectively), located on Wall Street, owned by Gerald Asmus, who submitted a request to change the zoning on these parcels from R-1 to R-2. Roll call of members: Brenda Mackey, here; John Heckerman, absent; Connie Mehring, here; Jamin Roe, here; Jason Benedict, here; James Head, here. Also present was Village Administrator/Zoning Inspector Chad Johnson, Village Solicitor Paul Skaff, and Fiscal Officer Ryan Harnishfeger. Visitors present: Gerald (Jerry) Asmus, Steve Powell, and Matt Shanahan.

Mayor Buehrer invited any visitor who wished to say anything concerning Mr. Asmus' request for a zoning change to let their thoughts be known. Mr. Asmus reiterated that he was requesting to re-zone lots 53 and 54 so he could build multi-family units on them. He also stated that he had not received any rebuttal from adjacent land owners. Mayor Buehrer asked Solicitor Skaff if he had anything to add. He replied that he did not.

Mayor Buehrer reported that at the village planning commission meeting, held on October 23, 2017, Mr. Asmus showed his plans to the commission members. Some concerns that the planning commission members voiced at that meeting were concerning parking, orientation of the structure, meeting required setbacks, coverage of the lot, and traffic that would be added to the area. Mayor Buehrer reported that Mr. Asmus spoke to the members about the issues they brought up and showed a willingness to make some changes if necessary. Mayor Buehrer reported that he had emphasized at the commission hearing, and all commission members were in agreement, that their concerns were not about Mr. Asmus personally or anything he has done in the village so far, which has always been excellent. Instead the concern was with changing the zoning on the lots, which would likely bring requests to change the zoning for other similar lots in town as well, which was what the commission recommended against in 2005 when Ordinance #737-05 was passed to change R-1 from permitting one-family and two-family dwellings to permitting only one-family dwellings. Mayor Buehrer also said that, as a neighbor, he was concerned about having apartments behind his property. Also, the future has to be taken into consideration, because Mr. Asmus will not always be here to manage the properties, and the same thing could happen in other areas of town on a larger scale. To keep that from happening, the commission desired to stick with the original plan that was put in place. Mayor Buehrer said that Tim Smith, chairperson of the planning commission, had expressed concern that it was a slippery slope. Mayor Buehrer reported that, after the planning commission had considered and discussed the zoning change request by Gerald Asmus in their public hearing on October 23, 2017, Ron Mackey made a motion to deny the proposed zoning change; Mayor Buehrer himself seconded the motion, and every member of the commission voted unanimously to deny the proposed zoning change. So, this brought us to tonight's meeting on December 4, 2017 for a public re-zoning hearing by the village council, with a recommendation from the village planning commission to deny the request for re-zoning. Mayor Buehrer pointed out that practically no public had shown up for the hearings (none at all for the planning commission hearing), but this does not necessarily mean they have no issues with changing the zoning code. Some people expressed questions privately and had the same concerns about what might happen after Mr. Asmus is no longer the owner. Mr. Asmus asked about other rental properties in town that have a similar risk of going downhill. Mayor Buehrer agreed there are some problems and there can be a problem when the owners, unlike Mr. Asmus, live outside of town. The concern of the planning commission is what happens after a good owner like Mr. Asmus sells the property.

Mayor Buehrer asked Solicitor Skaff if council members should wait for the regular council meeting to make a decision on the re-zoning request. Mr. Skaff answered that they should. Mayor Buehrer invited anyone who would like to ask questions of Mr. Asmus or look at his construction plans to do so.

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Councilman Roe and Councilman Benedict asked to look at the construction plans, along with Mayor Buehrer and other members. They asked Mr. Asmus a few questions about the plans.

With no more questions for Mr. Asmus and nothing further to discuss, Mayor Buehrer declared the re-zoning hearing adjourned at 6:46 p.m.

### REGULAR COUNCIL MEETING:

Council called to order in regular session at 7:00 p.m. with Mayor Todd Buehrer presiding. Roll call of members: Brenda Mackey, here; John Heckerman, absent at roll call, but arrived at 7:29 p.m.; Connie Mehring, here; Jamin Roe, here; Jason Benedict, here; James Head, here. Also present was Village Administrator/Zoning Inspector/Meter Reader Chad Johnson, Village Solicitor Paul Skaff, and Fiscal Officer/Utilities Clerk Ryan Harnishfeger. Visitors present: Gerald (Jerry) Asmus, Steve Powell, Matt Shanahan, Gabrielle Coon (for Otsego government class), and Wood County Sheriff's Deputy Jody Swoap. Minutes from the November 20 meeting were approved as submitted.

**FINANCE and CLAIMS:** A spreadsheet of the current invoices was reviewed and approved by members. Councilman Roe made a motion that these bills be allowed and orders drawn for same. Councilman Benedict seconded this motion. All were in favor; motion carried. Councilman Heckerman was not present to vote on the bills, which included an invoice from Josh Heckerman for mowing and grounds keeping. Copies of the November Bank Reconciliation, Fund Status, Revenue Status, and Appropriation Status reports were given to Mayor Buehrer and the Finance Committee to review.

Mayor Buehrer invited discussion on the matter of Gerald Asmus' re-zoning request for lots 53 and 54 (parcel numbers V74-510-050311001000 and V74-510-050311002000, respectively), to have the lots changed from R-1 to R-2 zoning. The mayor reminded everyone that the village planning commission had voted unanimously to deny the request, which was also discussed in the council's public re-zoning hearing which took place this evening, from 6:33 p.m. to 6:46 p.m.

Visitor Steve Powell asked to make a comment on the re-zoning request and Mayor Buehrer invited him to do so. Mr. Powell gave his perspective, having lived here for 36 years and being a property owner who has rentals like Mr. Asmus. As to the concerns about what will happen after Mr. Asmus is gone, Mr. Powell asked members to consider that rental properties tend to be a little bit nicer than privately owned properties, in order to attract decent tenants. So, it might happen that they improve in standards when new owners take over, rather than getting worse and going downhill. Mr. Powell also suggested that members consider that what Mr. Asmus is intending might help make Tontogany a place where people could come who can't afford to own their own home, especially people who want to take advantage of the school for their children.

Mayor Buehrer thanked Mr. Powell for his comments and then asked for a motion from a council member on the recommendation from the planning commission on Gerald Asmus' re-zoning request. Councilman Roe stated that he agreed fully with Mayor Buehrer that the village has never had a problem with Mr. Asmus' rental properties, but there have been problems with other landlords in the village with things like garbage and vehicle issues. Mr. Roe said he could see Mr. Powell's point that the next landlord might improve the property, but it could go the other way as well; it is an unknown. Also, if we say yes to this, it will be hard to say no to others in the future to make the same kind of zoning changes. Councilman Roe then made a motion to accept the recommendation of the village planning commission to deny Mr. Asmus' request to re-zone his two parcels from R-1 to R-2. Councilman Benedict seconded this motion. Roll call vote on accepting the planning commission's recommendation to deny the re-zoning request: Mackey, yes; Heckerman (not present); Mehring, yes; Roe, yes; Benedict, yes; Head, yes.

Mr. Asmus asked if it was possible for the zoning to go back to the way it used to be without changing the R designation (when R-1 permitted one-family and two-family dwellings). Mayor Buehrer responded that that would change the zoning, which is what you were trying to do for your lots.

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Mayor Buehrer did a first reading of Ordinance #883-17, by title only, an ORDINANCE AMENDING CERTAIN SECTIONS OF THE VILLAGE OF TONTOGANY INCOME TAX ORDINANCE, AND DECLARING AN EMERGENCY. Solicitor Skaff explained that he prepared this ordinance for the village because the Regional Income Tax Agency (RITA) contacted member municipalities, requesting a change to their municipal income tax code to account for some changes to the municipal tax laws recently adopted by the Ohio General Assembly, effective January 1, 2018. Some of the state's changes, including the centralized collection of municipal income tax, are presently being litigated, so Mr. Skaff did not include those changes in this ordinance. This ordinance is written as emergency legislation because there are not three meetings planned before January. Councilwoman Mackey made a motion to suspend the rules and declare an emergency for Ordinance #883-17. Councilwoman Mehring seconded this motion. All were in favor; motion carried. Councilman Benedict made a motion to adopt Ordinance #883-17. Councilman Roe seconded this motion. All were in favor; motion carried.

Members each were given a copy of the 2018 appropriations budget, prepared by Fiscal Officer Harnishfeger, including his budgeting comments for each line item in each fund. Mayor Buehrer asked Mr. Harnishfeger to go over the proposed budget for members. Mr. Harnishfeger briefly explained the amounts proposed for each fund and some of the line items of special interest, including \$25,000.00 budgeted toward the planned school sidewalk project and \$13,000.00 budgeted for new water meter equipment. Mayor Buehrer pointed out that our Official Certificate of Estimated Resources is \$1,665,156.06, and the proposed budget is \$1,368,428.00, which is well within the money allowed for appropriations. The mayor also reminded members that a large part of the budget is water, electric, and sewer; the rest is small by comparison to the monies needed for those three items. Mr. Harnishfeger said he added \$30,000.00 more to the electric budget for purchasing wholesale electricity in 2018, because we are close to running out of appropriated money to pay our final bill this year and may need to do a supplemental appropriation. A Community Development Fund grant of \$830.00 was received from Suburban Natural Gas, which was budgeted for mosquito spraying. Mayor Buehrer asked Administrator Johnson to check into possible utility rate increases coming from Bowling Green for 2018, so we can plan what we will need to do with our utility rates. After a little more discussion, members decided no changes needed to be made to the proposed 2018 budget, so Mayor Buehrer gave a first reading of Ordinance #884-17, by title only, AN ORDINANCE TO MAKE APPROPRIATIONS FOR THE CURRENT EXPENSES AND OTHER EXPENDITURES OF THE VILLAGE OF TONTOGANY, COUNTY OF WOOD AND STATE OF OHIO, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2018, AND DECLARING AN EMERGENCY. This ordinance includes \$192,568.00 appropriated from the General Fund, \$67,395.00 appropriated from the Special Revenue Fund, \$0.00 appropriated from the Capital Improvement Fund, \$298,375.00 appropriated from the Water Fund, \$695,090.00 appropriated from the Electric Fund, and \$115,000.00 appropriated from the Other Agency-Sewer Fund. The total of these appropriations is \$1,368,428.00. Councilwoman Mackey made a motion to suspend the rules and declare an emergency for Ordinance #884-17. Councilman Roe seconded this motion. All were in favor; motion carried. Councilman Benedict made a motion to adopt Ordinance #884-17. Councilwoman Mehring seconded this motion. All were in favor; motion carried.

Mayor Buehrer reported that the village received a notification from the Ohio EPA – Division of Drinking and Ground Waters regarding the recently passed Senate Bill 2, which requires all public water systems to have an asset management program by October 1, 2018. The EPA notice states that a system's asset management program must include: inventory and evaluation of all assets; operation and maintenance programs; emergency preparedness and contingency planning program; criteria and timelines for infrastructure rehabilitation and replacement; approved capacity projections and capital improvement planning; long-term funding strategy to support asset management program implementation. Mayor Buehrer commented that Utilities Superintendent Brandon Johnson will probably have to deal with this requirement for the town, most likely working together with an engineering firm.

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Fiscal Officer Harnishfeger reported that the representative from Hylant Administrative Services had a scheduling conflict and could not make it to this meeting to go over the village's Ohio Plan Insurance Renewal Package for 2018. She intends to come to the meeting on December 18 instead.

**ZONING:** Zoning Inspector Johnson reported that he did a zoning permit for the Fretters on the corner of Broad Street and Washington Street. They are adding a 28-ft. x 24-ft. garage off of the rear of their house. Mr. Johnson said they asked about the sidewalk, if they could cover it. Mayor Buehrer responded that they cannot do that; we don't want to let that get started again.

Councilwoman Mackey reported that there are still two couches in the alley in front of the residence reported at the last meeting. Zoning Inspector Johnson offered to post a notice on the door of the house.

**UTILITIES:** Meter Reader Johnson asked about what money was budgeted for purchasing water meters in 2018, similar to 2017. Fiscal Officer Harnishfeger responded that we have the same plan this year, only better; we were able to increase the amount of money by \$6,000.00 over last year for purchasing new water meters. Mr. Johnson commented that he would like to see all the meters switched over to radio read; then he would like to quit the job of reading meters, which has begun to cause him a lot of pain in his feet.

Councilwoman Mackey expressed a desire for Council to be better apprised about delinquent utilities. She asked if they were not a matter of public record. Mayor Buehrer responded that individual utility accounts are not a public record, to which Solicitor Skaff agreed. So, generic totals of delinquent utilities can be reported, but not individual's accounts. Ms. Mackey pointed out that the town lost a great deal of money when the store downtown had to be foreclosed upon and delinquent utilities placed on the property taxes were not recovered, but Council was not being regularly informed about the state of delinquent utilities, which she feels they should be. She asked what Council could do about collecting delinquent utilities that have been certified to the county auditor. Mayor Buehrer and Fiscal Officer Harnishfeger explained that, once delinquent utilities have been certified to the auditor for placement on the property owner's tax duplicate, they are off of the village's books and the only method of receiving those amounts are through property taxes collected by the county, which are sent to the village in two installments in the following tax year. Mr. Harnishfeger said he would be glad to give Council reports on delinquent utility totals being certified every three months. He also said he would call Collette Dickey at the county auditor's office to ask her advice on how to better track the payment of the taxes on the delinquent utilities that have been certified. Right now, we just get a lump sum back in two installments in the following tax year, but don't know who has actually paid their taxes and who hasn't. Mr. Harnishfeger said that the case with the store downtown was an unusual case that threw everybody for a loop. A lot of delinquent utilities are renters, who get behind on their utilities. In most of those cases, the landlord will ask us not to certify the delinquent utilities to be placed on their taxes, but will make an arrangement to pay the account off themselves, if the renter ultimately doesn't. Likewise, we give individuals a chance to come up with payment plans to get their accounts caught up without having to be certified to the auditor. It is dealt with on a case by case basis. Councilman Heckerman asked how many people have to be certified all the time and never pay their bill. Mr. Harnishfeger estimated that there are about 5 people who always have to be certified. Councilman Roe asked if there was a way to track whether or not the exact money certified comes back to us in the tax payments from the county in the following year. Mr. Harnishfeger said he would pose that question to Collette Dickey at the auditor's office, and he was in agreement with Council's concern that we need to avoid having a similar thing happen again like happened with the Moser's Village Store account.

**STREETS and ALLEYS:** Councilman Heckerman reported that all of the street lights were fixed, and they need to buy some more fixtures.

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**SIDEWALKS and TREES:** Councilman Roe reported that he contacted Dave Kuhn, of Feller, Finch, and let him know that Council approved his engineering estimate, but that they should wait for us to get the ditch filled in before doing anything. Mr. Roe asked the mayor if he could get a couple of estimates to get that done. Mayor Buehrer answered that he would do so.

**DRAINS and SEWERS:** Nothing to report.

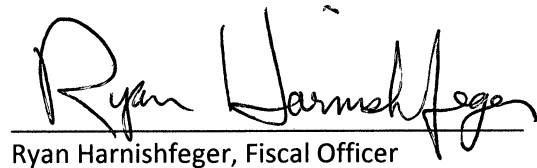
**CITY HALL and PARKS:** Mayor Buehrer reported receiving a message from Kelly O'Boyle of Solid Waste Management, giving an update on the progress of their efforts concerning recycling drop-off locations. On November 15, bids for the Monthly Satellite Locations were opened. A no bid letter was received from Republic and the bid from the Bowling Green Recycling Center (BGRC) was \$88,560.00, which was over the estimate of \$60,000.00 by more than the 10% allowed by law. Therefore, the bid will need to be rejected. After looking at all options, their proposal is to continue month-to-month with BGRC until the end of April 2018; implement Permanent Drop-off Locations estimated effective in April 2018; utilize the proposed locations for the Permanent Drop-offs from the presentation in July 2017. If the Proposed Pilot Study is approved and successful, Proposed Permanent Satellite Locations will include some merging of entities, but no change to Tontogany. Mayor Buehrer commented that the commissioners seem to want to do this all at once with lighting and cameras, and not do it in two phases. It will be maintained by the same people as previously, like the Boy Scouts for Tontogany, probably with no change in the amount we pay them.

Mayor Buehrer reported that he contacted someone today for an estimate to replace the portable restroom enclosure that was burned down at Mehring Park. The mayor said he would like to see it replaced this year yet. Then, in the spring, we could let the boy who burned it down paint the enclosure, as well as the one at Centennial Park, as part of his community service. The young man's dad wants him to do some community service above what the court decides to require of him.

Councilwoman Mehring reminded members that the village needs to get a new basketball goal put up at Centennial Park. Mayor Buehrer asked if we want to get one like the township's. Members were in agreement that we should get a good quality one like the township's. Mayor Buehrer said that they looked recently and they were priced around \$2,600.00, plus probably a few hundred dollars for installation. Fiscal Officer Harnishfeger stated that there is enough left in park funds to cover the cost. Mayor Buehrer asked the Otsego student if she had any questions. She had none.

With nothing further to discuss, Mayor Buehrer declared the meeting adjourned at 8:23 p.m.

  
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Todd Buehrer, Mayor

  
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Ryan Harnishfeger, Fiscal Officer